

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEVIN CURRIER,

Case No. 05-40378

Plaintiff,

v.

District Judge Paul V. Gadola
Magistrate Judge R. Steven Whalen

TRANSUNION CREDIT INFORMATION
COMPANY,

Defendant.

ORDER DENYING MOTION TO STRIKE

Before the Court is Defendant's motion to strike the Plaintiff's response to its motion for summary judgment [Docket #49]. Defendant claims that the Plaintiff's response was inexcusably late, and that it contains hearsay.

Plaintiff, who is proceeding *pro se*, states that he was unable to file a timely response because he was in jail, and had no access to typewriters or legal research material. That sounds like excusable neglect to me. But more to the point, even considering the Plaintiff's response, I have filed a Report and Recommendation that Defendant's motion for summary judgment be granted, and that the case be dismissed with prejudice. Defendant has, at least

at this stage of the proceedings, prevailed on the merits, so its motion to strike the Plaintiff's response is, in effect, moot.

Accordingly, Defendant's motion to strike [Docket #49] is DENIED.

SO ORDERED.

S/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: February 28, 2008

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on February 28, 2008.

S/G. Wilson
Judicial Assistant